

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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PATRICK RANDELL MCINTOSH,

Civil No. 23-3149 (JRT/ECW)

Plaintiff,

v.

**ORDER**

LT. GALLION, et al.,

Defendants.

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Patrick Randell McIntosh, Reg. No. 24876-171, Federal Medical Center, P.O. Box 1600, Butner, NC 27509, *pro se* plaintiff.

Ana H Voss, Assistant United States Attorney, **UNITED STATES ATTORNEY'S OFFICE**, 300 South Fourth Street, Suite 600, Minneapolis, MN 55415, for defendants.

Based upon the Findings of Fact, Conclusions of Law, and Recommendation by United States Magistrate Judge Elizabeth Cowan Wright dated August 29, 2024, all the files and records, and no objections having been filed to said Report and Recommendation, **IT IS HEREBY ORDERED** that:

1. Defendants' Motion to Dismiss (ECF No. 18) is **GRANTED**;
2. The Complaint is dismissed **WITHOUT PREJUDICE** as to Plaintiff's requests for declaratory relief and injunctive relief against Defendants in their official capacities;
3. This Action is dismissed **WITH PREJUDICE** as to the claims under *Bivens* for monetary relief against Defendants in their individual capacities with respect to Plaintiff's allegations of First Amendment, Fourth Amendment, Fifth Amendment, and

possible Eighth Amendment (related to excessive force) violations, as well as all respondent superior claims against Defendant Warden Jared Rardin;

4. Plaintiff's claim under *Bivens* for deliberate indifference to a serious medical need under the Eighth Amendment, and claim under the Rehabilitation Act is dismissed **WITHOUT PREJUDICE**; and

5. This Action is dismissed **WITH PREJUDICE** as to Plaintiff's claims under the Americans with Disability Act and the Health Insurance Portability and Accountability Act.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: September 24, 2024  
at Minneapolis, Minnesota

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s/John R. Tunheim  
JOHN R. TUNHEIM  
United States District Judge